

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

KWONG YUNG,) Case No. 07-5949 SC
Plaintiff,)
v.)
INSTITUTIONAL TRADING COMPANY, a) ORDER DENYING
corporation, IT.COM, a corporation,) DEFENDANTS' MOTION TO
DOES 1 to 10,) DISMISS FOR LACK OF
Defendants.) PERSONAL JURISDICTION
) AND GRANTING
) DEFENDANTS' MOTION TO
) TRANSFER
)

I. INTRODUCTION

18 This matter comes before the Court on the Motion to Dismiss
19 for Lack of Personal Jurisdiction filed by the defendants
20 Institutional Trading Company and IT.com (collectively
21 "Defendants"). Docket No. 8. Defendants also seek, in the
22 alternative, transfer of the case to the United States District
23 Court for the District of Columbia. Plaintiff Kwong Yung filed an
24 Opposition and Defendants submitted a Reply. Docket Nos. 12, 14.
25 For the following reasons, the Court DENIES Defendants' Motion to
26 Dismiss and GRANTS Defendants' Motion to Transfer the case to the
27 District of Columbia.

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1 **II. BACKGROUND**

2 In November 2005, Defendants hired Plaintiff as a supervising
3 engineer for what Plaintiff alleges was a three year contract.
4 Notice of Removal, Docket No. 1, Ex. A, Compl. ¶¶ 3, 4. Plaintiff
5 alleges that Defendants breached this contract when they fired him
6 without cause in December 2006. Id. ¶ 5. Plaintiff then filed
7 suit in the California state Superior Court in San Francisco. Id.
8 Defendants subsequently removed the action to this Court based on
9 diversity jurisdiction. Defendants allege that they are based in
10 Washington D.C. and that Plaintiff resides in the Northern
11 District of California. Defendants then filed the present motion,
12 asserting that Defendants are not subject to personal jurisdiction
13 in the Northern District of California.

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15 **III. DISCUSSION**

16 Defendants have submitted substantial evidence indicating
17 that they have little, if any, contact with California. See
18 Cordover Decl., Docket No. 9.¹ Cordover states that Defendants
19 have their principal places of business and are incorporated in
20 Washington D.C. Id. ¶ 3. Neither Defendant has any offices, bank
21 accounts, rental agreements, clients, advertising, or other
22 contacts with California. Id.

23 Plaintiff, conversely, submitted a declaration stating that
24 he signed the employment agreement in Northern California, the
25 work he was hired to perform was to be done, in part, in Northern

26
27 ¹ Mark Cordover is the chief executive officer of
Institutional Trading Corporation and IT.com. Cordover Decl. ¶ 2.

1 California, and that he traveled to Northern California from
2 Washington D.C. on several occasions for work-related purposes.
3 See Yung Declaration ¶¶ 2-5. Plaintiff's Declaration, however,
4 contains only the electronic signature "/s/" and does not contain
5 an imaged signature. Pursuant to General Order No. 45X.B., a
6 signature attestation is required for any non-imaged signature and
7 such an attestation is lacking here. It thus appears that
8 Plaintiff has submitted an unsigned declaration. See 28 U.S.C. §
9 1746.

10 Even assuming, arguendo, that Plaintiff had signed his
11 Declaration and that the Court could consider the information it
12 contains, justice would best be served by transfer of the present
13 action to the District of Columbia. 28 U.S.C. § 1404(a) states:
14 "For the convenience of parties and witnesses, in the interest of
15 justice, a district court may transfer any civil action to any
16 other district or division where it might have been brought." In
17 addition, where, as here, "defendants have challenged a court's
18 power over their person and, at the same time, have moved
19 alternatively for transfer, the interests of judicial economy are
20 best served by initial address of the transfer issue."
21 Teleprompter Corp. v. Polinsky, 447 F. Supp. 53, 54-55 (S.D.N.Y.
22 1977); see also Goldlawr, Inc. v. Heiman, 369 U.S. 463 (1962).
23 With these ideas in mind, the Court thereby DENIES Defendants'
24 Motion to Dismiss for Lack of Personal Jurisdiction and GRANTS
25 Defendants' Motion to Transfer the present case to the District of
26 Columbia.

IV. CONCLUSION

For the reasons stated above, the Court DENIES Defendants' Motion to Dismiss for Lack of Personal Jurisdiction and GRANTS Defendants' Motion to Transfer the present action to the District of Columbia.

IT IS SO ORDERED.

Dated: April 14, 2008

Samuel L. Smith

UNITED STATES DISTRICT JUDGE
